

## **VIRGINIA BOARD OF MEDICINE MINUTES**

October 18, 2007

Department of Health Professions

Richmond, VA

**CALL TO ORDER:**

The meeting of the Board convened at 8:45 a.m.

**MEMBERS PRESENT:**

Stephen Heretick, JD, President  
Gen. Clara Adams-Ender, RN, MSN, USA Retired  
Sandra Anderson Bell, MD  
Ann T. Burks, JD  
Patrick Clougherty, MD  
Malcolm Cothran, MD  
Claudette Dalton, MD  
William Epstein, MD  
Suzanne Everhart, DO  
Valerie Hoffman, DC  
Gopinath Jadhav, MD  
Karen Ransone, MD  
Ellen Shapiro, DPM

**MEMBERS ABSENT:**

Roderick Mathews, JD  
Juan Montero, MD  
Robert Mosby, MD, Vice-President  
Jane Piness, MD, Secretary-Treasurer

**STAFF PRESENT:**

William L. Harp, MD, Executive Director  
Barbara Matusiak, MD, Medical Review Coordinator  
Ola Powers, Deputy Executive Director, Licensing  
Jennifer Deschenes, JD, Deputy Executive Director of Discipline  
Kate Nosbisch, MS, Deputy Executive Director of  
Practitioner Information  
Amy Marschean, Assistant Attorney General  
Colanthia Morton Opher, Recording Secretary  
Krystal Blanton, Administrative Specialist  
Elaine Yeatts, DHP Senior Policy Analyst  
Sandra Ryals, Director, Department of Health Professions  
Emily Wingfield, Deputy Director, Department of Health Professions

**OTHERS PRESENT:**

Michael Jurgensen - Medical Society of Virginia  
Scott Johnson – Medical Society of Virginia  
Nancy Young – Virginian Pilot  
Chelsea Miller - HDJN

## **EMERGENCY EVAUCATION PROCEDURES**

After roll call and declaration of a quorum, Mr. Heretick informed every one of the emergency evacuation procedures.

## **APPROVAL OF THE JUNE 21, 2007**

Dr. Ransone moved to approve the minutes of June 21, 2007 as amended by General Adams-Ender. The motion was seconded and carried.

## **ADOPTION OF AGENDA**

Ms. Burks moved to adopt the agenda as amended by Dr. Harp to add the Nurse Practitioners Guidance Document and the NOIRA for Reinstatement as items #8 and #9. The motion was seconded and carried.

## **INTRODUCTION OF VISITING GUESTS**

Mr. Heretick acknowledged the guests in the gallery.

## **PUBLIC COMMENT ON AGENDA ITEMS**

There was no public comment.

## **PRESIDENT'S REPORT**

There was no report.

## **VICE-PRESIDENT'S REPORT**

There was no report.

## **SECRETARY-TREASURER REPORT**

There was no report.

## **EXECUTIVE DIRECTORS REPORT**

### Three Paid Claims Assessments

Dr. Harp and Ms. Nosbisch presented updated information regarding the current status of the licensees subject to this law. Dr. Harp provided information on the competency trends in regards to settlements versus judgments and advised that Ms. Nosbisch will provide a report to capture this information. Dr. Harp also noted that this information would be provided to the General Assembly.

#### Administrators in Medicine Eastern/Southeastern Regional Meeting

Ms. Nosbisch advised that the states were well represented with 47 attendees and that the program was well received.

Ms. Nosbisch advised that Neal Kauder attended and presented a demonstration of the Sanctions Reference Study in which several states showed an interest.

Ms. Nosbisch briefly discussed the round-table topic of autonomous boards versus being part of an umbrella agency stating the discussion's goal was for information sharing only and not which was better.

#### Coordination with Medical Schools

Dr. Harp informed the Board of his and Ms. Nosbisch's efforts to meet with the Deans of EVMS, MCV/VCU, UVA and Via for the purpose of requesting that the Board of Medicine added to their curriculum. Dr. Harp stated that all visited to date have agreed and board staff will be following up with each based on their curriculum needs.

Ms. Nosbisch added that an ExecNet query with AIM was conducted to determine if any other board in the nation was on the schools' curricula, and Virginia will be the first.

#### Board Member ID Badges

Ms. Morton informed the Board members that if they had not already done so, they needed to coordinate the replacement of their ID badges for the new building.

#### Travel Regulations

Dr. Harp advised that a copy of the new regulations was being provided, and asked that the Board member review them to ensure compliance.

#### Center for Substance Abuse Treatment Conference

Dr. Harp informed the Board that the Center for Substance Abuse Treatment would be previewing an abbreviated version of the opioid prescribing module in Williamsburg and suggested that board members not involved in case review or other board business attend.

#### Medical Society of Virginia Annual Meeting (MSV)

Dr. Harp advised that Ms. Nosbisch, and Ralph Orr, with the Prescription Monitoring Program, and he will be attending the MSV annual meeting. Dr. Harp advised that Ms. Nosbisch will be providing the opportunity for practitioners to update their profiles on-the-spot, and Mr. Orr will be

demonstrating the new module developed by MCV for PMP on prescribing. Dr. Harp also mentioned that Mr. Heretick will be addressing the House of Delegates at that same meeting.

Dr. Harp suggested consideration be given for Board members and staff to produce a DVD that would assist licensees in understanding their responsibilities as a practitioner in Virginia.

## **COMMITTEE AND ADVISORY BOARD REPORTS**

Dr. Hoffman moved to accept the Committee and Advisory Board reports en bloc. The motion was seconded and carried.

## **OTHER REPORTS**

### Assistant Attorney General

Ms. Marschean informed the board of the two pending lawsuits filed against the Board of Medicine. Ms. Marschean advised that Ms. Moore filed a brief in July on Dr. Vuyyuru's case and is waiting on the Court of Appeals to give a date for oral arguments. Ms. Marschean also stated that the Court of Appeals upheld the Board's decision in Dr. Abofreka's case. Dr. Abofreka and his attorney have filed a petition for appeal to the Supreme Court. Ms. Marschean noted that Dr. Vuyyuru will be eligible to petition for reinstatement of his license in May 20089.

### Director of DHP - Sandra Ryals

Ms. Ryals welcomed the Board members to the new location and gave an overview of the expected new technology and the current provisions of the contracted security services for the shared building.

Ms. Ryals provided an overview of the Report of the Governor's Health Reform Commission and discussed the four major foci of the report. Ms. Ryals advised that one of the direct impacts to the agency is relative to the healthcare workforce; to include physicians, nurses, and nursing direct support services. Ms. Ryals mentioned that information will be forthcoming about the agency's involvement with the new Healthcare Workforce Work Center.

In regards to Virginia Performs, Ms. Ryals encouraged the board members to go to the website [www.vaperforms.virginia.gov](http://www.vaperforms.virginia.gov) and review the entire report and scorecard results for the Department of Health Professions.

Ms. Ryals informed the board members that all the state agencies have been requested to prepare a budget with 5% and 10% cuts, and in addition to travel, all requests to hire, (full and part-time positions), must now go through the Executive Director, Agency Director and also the Secretary of Health and Human Services.

Ms. Ryals then gave an update on the three performance measures under Virginia Performs. Dr. Harp acknowledged that the division under Ms. Powers has achieved a 95.6% rating in

customer satisfaction rating and 100% rating in completion of licensure applications within 30 days.

Ms. Ryals also addressed the appearance of the downward trend in the explanatory note under the objective to detect, receive, evaluate, and investigate allegations of misconduct within 250 days. Ms. Ryals informed the Board that resources have been shifted to handle that patient care cases and the backlog. Ms. Ryals noted the most recent fiscal year, the closed patient care cases exceeded closed non-patient care cases for the first time in two years.

Ms. Ryals reviewed the remaining recommendations and gave an example of the tiered approach to investigations.

Dr. Dalton reported that in line with the Workforce initiative, the Council on Medical Education has been reviewing reports and there is a concern about the Title VII funding, Medicare cuts fewer residencies, student debt and the lack of clinical experience for an increasing number of medical students.

#### Board of Health Professions

Minutes from the Board of Health Professions' Full Board meeting held September 25, 2007 were provided for informational purposes only and did not require action.

#### Department of Health Professions

There was no report.

#### Podiatry Report

There was no report.

#### Chiropractic Report

Dr. Hoffman reported that she attended the Federation of Chiropractic Licensing Boards' annual meeting in Vermont and some of the key complaints among the profession were advertising, documentation and recordkeeping.

Dr. Hoffman advised that several states have banned the advertising of certain chiropractic products after receiving repeated complaints of defective items.

Dr. Hoffman also reported that because of shortcomings, several states are now requiring that a portion of continuing medical education be obtained in recordkeeping and documentation every year.

## **NEW BUSINESS**

### Chart of Regulatory Actions

Ms. Yeatts provided a summary of current regulatory actions, highlighting the progress of the Treatment Guidelines for Pain Management; Mixing, Diluting and Reconstituting; and Changes in the Continuing Competency requirements

### **Regulatory Actions**

#### Adoption of Final Regulations for 18VAC90-30-80 – Inactive licensure nurse practitioners

Dr. Bell moved to adopt the final regulations for nurse practitioners to clarify requirements for licensure and practice. The motion was seconded and carried.

#### Adoption of Final Regulations for 18VAC90-30 – Licensure of Certified Nurse Midwives

Dr. Hoffman moved to adopt the final regulations for replacement of emergency regulations. The motion was seconded and carried.

#### Adoption of Final Regulations for 18VAC85-20-22 - Restricted Volunteer Licenses

Dr. Bell moved to adopt the final regulations to authorize issuance of restricted volunteer licenses for practice without compensation in free clinics. The motion was seconded and carried.

#### Proposed Regulations for Pain Management for Physician Assistants and Nurse Practitioners

General Adams-Ender moved to adopt the proposed regulations for management of chronic, non-malignant pain by nurse practitioners and physician assistants. The motion was seconded and carried.

#### Fast-Track Action for Athletic Trainers

Dr. Bell moved to accept the recommended amendments to Chapter 120 (Regulations Governing the Licensure of Athletic Trainers) by fast-track action. The motion was seconded and carried.

#### Fast-Track Action for Radiologic Technologists

Dr. Cothran moved to accept the recommended amendments to Chapter 101 (Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited) by fast-track action. The motion was seconded and carried.

Notice of Intended Regulatory Action for Physician Assistants

Ms. Burks moved to accept the NOIRA to review the supervisory relationship of the physician and assistant, to include the removal of the 4<sup>th</sup> visit rule. The motion was seconded and carried.

Guidance Document – Protocol Requirements for Licensed Nurse Practitioners

Dr. Cothran moved to adopt the guidance document for protocol requirements for licensed nurse practitioners as presented. The motion was seconded and carried.

Petition for Rulemaking – Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry and Chiropractic

Ms. Yeatts advised that the document was provided for information only, and will be on the agenda of the Executive Committee, December 7, 2007 after the comment period has closed.

Proposed 2008 Meeting Calendar

Dr. Cothran moved to accept the proposed calendar as presented with a correction to the February Midwifery meeting. The motion was seconded and carried.

Practitioner Information Report

Ms. Nosbisch provided an updated report on the Consumer Website Visits noting the steady increase and the goal of 1 million visits.

Ms. Nosbisch reported that 99% of the physicians had completed their profiles and 82% had completed it on-line. Ms. Nosbisch also noted that a five question survey has been added to both the consumer and physician side of the website.

Dr. Harp reported that Virginia's website was rated number 2 in the nation by Public Citizen.

Discipline Report

Ms. Deschenes briefly reviewed the status of CCAs and cases currently being handled by the Board. Ms. Deschenes stated that she and Dr. Harp have been working with the Administrative Proceedings Division to resolve and address older cases. Ms. Deschenes also mentioned Dr. Harp's efforts to meet with enforcement regional supervisors to address the same.

Ms. Deschenes advised that as of October 16, 2007, there were 888 cases at probable cause with 7- As; 45-Bs; 514-Cs; and 322-Ds. Ms. Deschenes also advised that from January 1 through October 16, 2007, the Board held 66 informal fact-finding conferences and 19 formals; 36 cases settled by consent orders; and 5 profile cases were handled by agency-subordinates.

Ms. Deschenes report the actions taken as 4 revocations, 4 summary suspensions, 12 suspensions, and 4 suspensions of the privilege to renew. She states that there have been 18 mandatory suspensions. Additional actions taken by the Board include 60 reprimands, 50 Orders with terms and conditions, 8 referrals to a formal, and 8 suspensions by consent Order. In 14 cases, the charges were dismissed.

Ms. Deschenes noted that there were 15 IFCs and 4 formals scheduled. Ms. Deschenes assured the Board that any and everything that could be, has been scheduled and referred to a current calendar prepared by Board staff.

## **ANNOUNCEMENTS**

Dr. Harp commented on the guidebook prepared by the Federation of State Medical Boards on proper prescribing and advised that for a nominal fee the Board could personalize the book by including the State's laws and regulations and have it mailed to each of the state's prescribers.

**NEXT SCHEDULED MEETING:** February 21, 2008

**ADJOURNMENT:** With no further business to conduct, the meeting adjourned at 11:22 a.m.

---

Stephen E. Heretick, JD  
President

---

William L. Harp, M.D.  
Executive Director

---

Colanthia Morton Opher  
Recording Secretary